

Richard M. Heimann (State Bar No. 63607)
Kelly M. Dermody (State Bar No. 171716)
Eric B. Fastiff (State Bar No. 182260)
Brendan P. Glackin (State Bar No. 199643)
Dean M. Harvey (State Bar No. 250298)
Anne B. Shaver (State Bar No. 255928)
Lisa J. Cisneros (State Bar No. 251473)
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, California 94111-3339
Telephone: 415.956.1000
Facsimile: 415.956.1008

Joseph R. Saveri (State Bar No. 130064)
Lisa J. Leebove (State Bar No. 186705)
James G. Dallal (State Bar No. 277826)
JOSEPH SAVERI LAW FIRM, INC.
255 California, Suite 450
San Francisco, California 94111
Telephone: 415.500.6800
Facsimile: 415.500.6803

Co-Lead Counsel for Plaintiff Class

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

All Actions

Master Docket No. 11-CV-2509-LHK

**PLAINTIFFS' ADMINISTRATIVE
MOTION PURSUANT TO LOCAL RULE
79-5 TO FILE UNDER SEAL PORTIONS
OF PLAINTIFFS' MOTION TO EXCLUDE
EXPERT TESTIMONY PROFFERED BY
DEFENDANTS AND DECLARATION OF
LISA J. CISNEROS IN SUPPORT
THEREOF**

Judge: Honorable Lucy H. Koh

Pursuant to Civil Local Rule 7-11 and 79-5(c) and (d), Plaintiffs respectfully request an order from the Court authorizing the filing under seal of (1) the entirety of all exhibits to the Declaration of Lisa J. Cisneros In Support of Plaintiffs’ Motion To Exclude Expert Testimony Proffered By Defendants And Memorandum of Law In Support Thereof, as well as (2) portions of Plaintiffs’ Motion To Exclude Expert Testimony Proffered By Defendants And Memorandum of Law In Support Thereof (“Plaintiffs’ Motion”) that cite to such exhibits. The portions of Plaintiffs’ Motion that Plaintiffs seek to seal are identified in the redacted version of the Plaintiffs’ Motion, which is attached as Exhibit A to the Declaration of Lisa J. Cisneros In Support of Plaintiffs’ Motion to Seal (“Cisneros Declaration”). The unredacted version of the Motion is attached as Exhibit B to the Cisneros Declaration, and contains yellow highlighting to indicate where redactions are proposed.

Plaintiffs request that the above noted documents be filed under seal because they are or refer to documents or information that Defendants have designated “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the Stipulated Protective Order (Modified by the Court) (Dkt. No. 107). None of the information at issue was designated as confidential by Plaintiffs. Plaintiffs take no position on whether the designated documents satisfy the requirements for sealing, and specifically reserve the right to challenge any “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” designation under the Stipulated Protective Order (Modified by the Court) (Dkt. No. 107) as well as the sealability of these documents under Civil Local Rule 79-5.

Rule 26(c) of the Federal Rules of Civil Procedure provides broad discretion for a trial court to permit sealing of court documents for, inter alia, the protection of “a trade secret or other confidential research, development, or commercial information.” Fed. R. Civ. P. 26(c)(1)(G). The Ninth Circuit has “carved out an exception to the presumption of access to judicial records for a sealed discovery document [attached] to a nondispositive motion,” where the requesting party shows good cause exists to keep the records under seal. *Navarro v. Eskanos & Adler*, No. C-06 02231, 2007 U.S. Dist. LEXIS 24864, at *6 (N.D. Cal. March 22, 2007) (citing *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (“[A] ‘particularized showing’ under the ‘good cause’

standard of Rule 26(c) will ‘suffice[] to warrant preserving the secrecy of sealed discovery material attached to nondispositive motions.”); *see also Pintos v. Pacific Creditors Assoc.*, 565 F.3d 1106, 1115 (9th Cir. 2009) (“In light of the weaker public interest in nondispositive materials, we apply the ‘good cause’ standard when parties wish to keep them under seal.”).

Defendants must show good cause for sealing the documents they have placed a confidentiality designation upon by submitting a declaration and proposed order within seven days after the lodging of the designated documents. *See* Civil Local Rule 79-5(d).

Dated: January 9, 2013

Respectfully Submitted,

By: /s/ Lisa J. Cisneros

Lisa J. Cisneros

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Co-Lead Counsel for Plaintiffs and the Proposed Class